

U.S. Department of Justice



*United States Attorney
Southern District of New York*

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October 16, 2023

BY ECF

The Honorable Andrew L. Carter, Jr.
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square, Room 2203
New York, NY 10007

Re: *Knight First Amendment Institute v. U.S. Dep't of Homeland Security et al.*,
No. 17 Civ. 7572 (ALC)

Dear Judge Carter:

I write respectfully on behalf of both parties in the above-referenced FOIA action to provide a status update.

Background

As the Court is aware, various defendant agencies and components agreed to conduct a search for documents responsive to Item Number 1 in plaintiff's FOIA Request, and the United States Department of State ("State"), Customs and Border Protection ("CBP"), Department of Justice ("DOJ"), Homeland Security ("DHS"), and Citizenship and Immigration Services ("USCIS") have completed searching, processing, and producing responsive, non-exempt documents, if any. *See* Dkt. No. 171.

As the parties previously detailed, Immigration and Customs Enforcement ("ICE") and Plaintiff agreed on specific search terms; ICE completed those searches and informed the Knight Institute of the initial results; ICE has been processing the documents since the summer of 2021; and on September 22, 2022, the Court ordered ICE to process the documents at a rate of 1,000 pages per month. *See* Dkt. Nos. 178 & 206. As of December 2022, ICE had processed more than 12,000 pages of potentially responsive documents, and approximately 38,000 pages of potentially responsive documents remained. From December 2022 through June 2023, ICE worked with Plaintiff to try to narrow the scope of potentially responsive records and produce any remaining responsive documents, as detailed in the parties' joint status reports. *See* Dkt. Nos. 209, 210, 212, 214, & 218.

Current Status

Since the parties' last status update, ICE has completed processing and producing all remaining responsive documents. Accordingly, all defendants in this matter have now completed searching for, processing, and producing documents responsive to Plaintiff's FOIA Requests.

As a result, Plaintiff has agreed to dismiss with prejudice all claims in this action (except for any claims for attorney's fees and costs) against the following agencies and/or components: DOJ, USCIS, and CBP.

The agencies and/or components remaining in this action are therefore ICE, State, and DHS. Plaintiff has identified certain records produced by ICE, State, and DHS that contain redactions pursuant to various FOIA exemptions that Plaintiff might challenge through a motion for summary judgment, and Plaintiff has asked the agencies to prepare draft Vaughn indices further explaining the bases for the exemptions. By December 15, 2023, State will provide a draft Vaughn index to Plaintiff; by October 23, 2023, DHS will provide Plaintiff with a date by which DHS can complete draft Vaughn index; and by November 8, 2023, ICE will aim to provide Plaintiff with a date by which ICE can complete draft Vaughn index. The parties propose to file a joint status letter by November 22, 2023.

I thank the Court for considering this matter.

Respectfully,

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